

## UNITED STATES PATENT AND TRADEMARK OFFICE



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
• 09/230,001	05/18/1999	EVERT BASTIAAN DE HEUS	MULLE20.001A	5036
20995 7:	590 04/23/2002			
KNOBBE MARTENS OLSON & BEAR LLP			EXAMINER	
SIXTEENTH F			THORNTON, KRISANNE MARIE	
NEWPORTBE	EACH, CA 92660		ART UNIT	PAPER NUMBER
			1744	10
			DATE MAILED: 04/23/2002	

Please find below and/or attached an Office communication concerning this application or proceeding.

			( ) ( ) ( ) ( ) ( ) ( ) ( ) ( ) ( ) ( )			
		Application No.	Applicant(s)			
$\cup$		09/230,001	DE HEUS, EVERT BASTIAAN			
	Office Action Summary	Examiner	Art Unit			
۴		Krisanne M. Thornton	1744			
7 Period for F	he MAILING DATE of this communication app Reply	ears on the cover sheet with the	e correspondence address			
THE MA - Extension after SIX - If the peri - If NO per - Failure to - Any reply	TENED STATUTORY PERIOD FOR REPLY ILING DATE OF THIS COMMUNICATION. as of time may be available under the provisions of 37 CFR 1.13 (6) MONTHS from the mailing date of this communication. od for reply specified above is less than thirty (30) days, a reply iod for reply is specified above, the maximum statutory period very reply within the set or extended period for reply will, by statute, received by the Office later than three months after the mailing stent term adjustment. See 37 CFR 1.704(b).	36(a). In no event, however, may a reply be within the statutory minimum of thirty (30) of will apply and will expire SIX (6) MONTHS from a cause the application to become ABANDOI	timely filed lays will be considered timely. om the mailing date of this communication. NED (35 U.S.C. § 133).			
1)⊠ R	esponsive to communication(s) filed on 05 F	ebruary 2002 .				
2a)⊠ T	☐ This action is <b>FINAL</b> . 2b)☐ This action is non-final.					
3)□ S c	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.					
Disposition	of Claims					
4)⊠ CI	4) Claim(s) 1-12 and 14-21 is/are pending in the application.					
<b>4</b> a)	4a) Of the above claim(s) is/are withdrawn from consideration.					
5) <u></u> CI	i) Claim(s) is/are allowed.					
6)⊠ CI	6)⊠ Claim(s) <u>1-12 and 14-21</u> is/are rejected.					
7)□ CI	')☐ Claim(s) is/are objected to.					
8)∏ CI	aim(s) are subject to restriction and/o	r election requirement.				
Application	Papers					
9)[] The	e specification is objected to by the Examine	r.				
10) The drawing(s) filed on is/are: a) □ accepted or b) □ objected to by the Examiner.						
	pplicant may not request that any objection to the					
11) ☐ The proposed drawing correction filed on is: a) ☐ approved b) ☐ disapproved by the Examiner.						
If approved, corrected drawings are required in reply to this Office action.						
,	e oath or declaration is objected to by the Ex	aminer.				
	ler 35 U.S.C. §§ 119 and 120					
•	knowledgment is made of a claim for foreigr	n priority under 35 U.S.C. § 119	(a)-(d) or (f).			
a)	All b) ☐ Some * c) ☐ None of:					
1.	1. Certified copies of the priority documents have been received.					
	2. Certified copies of the priority documents have been received in Application No					
	3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received.					
	nowledgment is made of a claim for domesti					
a) The translation of the foreign language provisional application has been received.						
15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.						
Attachment(s)						
2) Notice of	References Cited (PTO-892) Draftsperson's Patent Drawing Review (PTO-948) on Disclosure Statement(s) (PTO-1449) Paper No(s) _	5) 🔲 Notice of Informa	ary (PTO-413) Paper No(s)all Patent Application (PTO-152)			

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#### **DETAILED ACTION**

### Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

This claim has been amended to depend from claim 1. Claim 1 contains no reference to a "sealing screw" and thus the recitation of "said sealing screw" in claim 9, lacks proper antecedent basis.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-12 and 16-21 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The newly amended limitation in independent claims 1 and 16, of "a volume of about 10 to about 50 liters of fluid is present between the inner and the outer wall", does not find proper support in the disclosure as originally filed. Applicant points to page 1, lines 9-10 for such support, however, that recitation refers to the "contents of the sterilization" apparatus not the volume between the walls thereof. This is also found to be the case at page 3, lines 24-

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25 of the instant specification which clearly states that the "contents of the inner boiler range between 10-50 liters". Neither recitation in the instant specification support limiting the volume between walls at 10 to 50 liters and therefore such limitation is held as new matter. It is further noted that the recitation at page 1 sets forth that which is conventional to ministerilizers.

### Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 12 and 16-21 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Kalasek U.S. patent No. 4,263,258.

Kalasek teaches a double-walled boiler sterilization apparatus having computer controlled, timed actuation, with a fluid reservoir provided between the sterilization chamber and an outer wall with heating means there. Placement of the sterilization chamber is concentric, but offset within the outer wall.

# Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.



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The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

- 1. Determining the scope and contents of the prior art.
- Ascertaining the differences between the prior art and the claims at issue.
- 3. Resolving the level of ordinary skill in the pertinent art.
- 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 10-11 and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalasek as applied above.

Kalasek teach square or rectangularly shaped structures, however it would have been well within the purview of one of ordinary skill in the art to utilize a cylindrical shape therefore, as cylindrical sterilization structures are conventional in the art, and mere changes in shape are not held to be patentable distinctions. It is further noted that the use of demineralized water in steam sterilizers is well known and expected because it minimizes the occurrence of mineral deposits from condensate within the structure that would deter optimal effectiveness of the apparatus.

Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalasek as applied to claims 1-6, 9-12 and 14-15 above, and further in view of Brucker WO 92/01479.

Brucker teaches the use of lateral supports within a boiler sterilizer for support of articles to be sterilized as well as, the utilization of a hinged, sealing door for operation of the apparatus.

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It would have been obvious to one of ordinary skill in the art to provide the lateral supports of Brucker in the structure of Kalasek because it would clearly allow for the sterilization of an increased number of articles simultaneously, and it would further have been obvious to utilize door means as those in Brucker for the purpose of sealingly enclosing the structure to optimize containment of sterilizing medium and temperature maintenance

#### Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krisanne M. Thornton whose telephone number is 703-308-3914. The examiner can normally be reached on Mon.-Wed. 6:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on 703-308-2920. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7718 for regular communications and 703-305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

KRISANNE THORNTON PREMARY EXAMENER

April 22, 2002